Press Freedom and Trust Bill

A

B I L L

TO

guarantee the freedom and independence of the media; to provide for recognition of an independent body to promote high ethical standards in the newspaper and online news industry; to confer advantages on members of such a body and to encourage the fair and expeditious resolution of certain claims against those members; and for connected purposes.

BE IT ENACTED by the Queen's most excellent majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the authority of the same, as follows:—

Part 1

Freedom and independence of the media

1 Guarantee of media freedom and independence

(1) The Secretary of State, every Minister of the Crown and every other person exercising any public function relating to the media must uphold the freedom of the media and its independence from the executive.

(2) For the purpose of upholding that freedom and independence, each of those persons must have regard to—

(a) the importance of the freedom and integrity of the media;

(b) the importance of avoiding improper political influence over the media;

(c) the right of the media freely to impart information and the right of the public freely to receive it.

(3) In determining, for the purpose of any enactment or rule of law, whether an interference by a public authority with the exercise of a right mentioned in subsection (2)(c) is lawful, particular regard must be had to the importance of a free and independent media in a democratic society.

(4) The protection conferred by this section is in addition to the Convention rights of any person.

DRAFT

(5) In this section—

"Convention right" has the same meaning as in section 1 of the Human Rights Act 1998;
"public authority" has the same meaning as in section 6 of that Act;
"Minister of the Crown" has the same meaning as in the Ministers of the Crown Act 1975;
"Secretary of State" means Her Majesty's principal Secretary of State whose department is for the time being mainly responsible for matters relating to the media.

PART 2

PRESS STANDARDS

2 Independent and effective system to promote high standards, etc.

(1) The purpose of this Part is to facilitate and encourage an effective and independent system of self-regulation by the press which promotes, in the public interest, high standards of conduct on the part of the press, consistently with the freedom of the press in a democratic society and with the rights of individuals.

(2) In this Part, "the press" includes, in particular—

(a) every national newspaper circulating in the United Kingdom,
(b) every news periodical with a substantial circulation in the United Kingdom,
(c) the online content associated with (a) and (b),
(d) every other periodical circulating in the United Kingdom and any associated online content, and
(e) every news periodical in online form published commercially in the United Kingdom.

3 The Recognition Panel

(1) References in section 4 to the Recognition Panel are to the High Court sitting for the purposes of that section; and for those purposes, the powers of the High Court are to be exercised—

(a) by the Lord Chief Justice sitting with such other holders of high judicial office, and such assessors, as the Lord Chief Justice may nominate for that purpose, and

DRAFT

(b) in accordance with civil procedure rules made for the purposes of section 4 and this section.

(2) No person may be nominated to sit as an assessor under subsection (1) unless the Lord Chief Justice is satisfied, having regard to the purpose of this Part, that that person possesses sufficient independence and expertise.

4 Recognition of press standards trust

(1) The Recognition Panel must grant an application by a body to be recognised under this section if, and only if, it is satisfied that—

(a) the criteria set out in the Schedule are sufficiently met in respect of that body, and

(b) the members of the body (that is, the persons who agree to be bound by the standards it sets and to participate in and fund its activities) consist of the owners of substantially the totality of the publications mentioned in paragraphs (a) to (c) of section 2(2) (but see subsection (3)).

(2) The Recognition Panel may require a body applying for recognition to provide such supporting information as the Recognition Panel considers appropriate.

(3) The Recognition Panel may, exceptionally, recognise more than one body under this section if satisfied that—

(a) to do so would not impede achievement of the purpose of this Part, and

(b) the members of the bodies together consist (or will consist) of the owners of substantially the totality of the publications mentioned in paragraphs (a) to (c) of section 2(2).

(4) A body for the time being recognised under this section is to be known as a press standards trust.

(5) Where a body is recognised as a press standards trust, the Recognition Panel—

(a) must, two years after the grant of recognition, and subsequently at three-yearly intervals, review whether it continues to be sufficiently satisfied as set out in subsection (1) (or, where more than one body is so recognised, as set out in subsection (3)), and

(b) if no longer so satisfied must, after consulting each such body, and such other persons as it considers appropriate, take such steps as it considers necessary to give effect to the purpose of this Part.

(6) Nothing in subsection (5)(a) prevents the Recognition Panel from conducting a review at any other time if it appears appropriate to do so.

(7) The steps that may be taken under subsection (5) include—

(a) giving advice or guidance, or indicating the Recognition Panel's expectation, as to the action to be taken by the body concerned;

(b) publication of a report about the matters in question;

(c) where the Recognition Panel is satisfied that no other step has sufficiently given effect, or would sufficiently give effect, to the purpose of this Part, revocation of the body's recognition.

(8) In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975, insert in the appropriate place "a body recognised as a press standards trust under the Press Freedom and Trust Act 2012, and a panel responsible for appointing members to that body".

5 Advantages of membership and compliance: civil proceedings

(1) Where in civil proceedings a court is considering whether to award exemplary damages against a person who, at the time of the conduct to which the proceedings relate, was a member of a press standards trust, the court must in determining that question (and the quantum of such damages if awarded) have regard, so far as relevant, to the extent to which that person adhered to any standards code issued, or determination made, by the trust.

(2) Where in civil proceedings a court is considering whether to award exemplary damages against a person who, at the time of the conduct to which the proceedings relate, was not a member of a press standards trust, the court may in determining that question (and the quantum of such damages if awarded) have regard to that fact so far as it is relevant.

(3) Nothing in subsection (1) or (2) entitles a court to award exemplary damages in a case in which they are not otherwise available.

(4) Where in civil proceedings—

(a) a question arises out of the publication by a person of information relating to an individual without first notifying that individual of the intended publication,

(b) that person was, at the time of publication, a member of a press standards trust, and

(c) before deciding to publish the information, that person obtained advice from the trust under its pre-publication advice scheme (as mentioned at paragraph 10 of the Schedule),

that person may rely on the advice so far as relevant to that question.

(5) Where the Civil Procedure Rule Committee proposes to make or amend civil procedure rules (other than rules for the purposes of section 3 or 4) appearing to them to relate to the subject-matter of this Act, the persons they consult under section 2(6) of the Civil Procedure Act 1997 must include any press standards trust.

(6) So far as civil procedure rules relating to the subject-matter of this Act may, in particular, include provision which (as regards costs or otherwise) takes into account, so far as relevant, whether (or not) a party is a member of a press standards trust and has complied with a requirement or determination binding on that party as a result of such membership, and confers an advantage (or disadvantage) on that party accordingly.

PART 3

FINAL

6 Short title, commencement and extent

(1) This Act may be cited as the Press Freedom and Trust Act 2012.

(2) This Act comes into force at the end of the period of one month beginning with the day on which it is passed.

(3) [extent].

DRAFT

SCHEDULE

Section 4

Recognition criteria

This Schedule sets out the criteria to be to be applied by the Recognition Panel under Section 4.

Recognition criteria in relation to independence of board and appointment panel

1 The body must be governed by a board consisting of a Chair and members who are demonstrably independent of the executive and Parliament and a majority of whom, including the Chair, are also demonstrably independent of the press; and the board must not include a serving editor of a publication.

2 Those persons must be appointed by a panel whose members are themselves selected in a fair, independent and open way and are demonstrably independent of the press; and the Chair may also participate in the appointment of other board members.

Recognition criteria in relation to funding

3 The funding arrangements for the body must be agreed between the board and the members of the body so as to provide it with sufficient medium-term funding, well in advance of the relevant expenditure, to ensure its effectiveness and its independence.

Recognition criteria in relation to standards code and public interest guidance

4 The board must publish and maintain a standards code binding on every member of the body and designed to give effect to the purpose of Part 2; and in doing so they must be advised by a suitably qualified code committee. The code must, among other things, cover standards of conduct relating, in particular, to the treatment of individuals in the course of obtaining material, accuracy of reporting, and the need to avoid misrepresentation.

5 The board must also issue guidance on interpretation of the concept of public interest in relation to the code.

Recognition criteria in relation to members' governance

6 The body's rules must require each of its members to maintain governance arrangements which are clearly understood internally and by the public, which ensure effective compliance with the standards code, and which ensure that any non-compliance with the code is brought promptly to the attention of the member's management and the body.

DRAFT

Recognition criteria in relation to complaints

7 The body's rules must require each of its members to maintain an effective and expeditious system for receiving and resolving complaints from the public of non-compliance with the standards code, without charge to the complainant.

8 The board must maintain a complaints scheme binding on the body's members under which the body receives and determines complaints about non-compliance with the standards code from the public (including persons not directly affected by the alleged of non-compliance), without charge to the complainant. The board may appoint and be advised by a complaints committee, which must include a majority independent of the press and may not include a serving editor of a publication.

9 The scheme must also—

(a) enable the board to investigate and act on its own initiative where it suspects serious or systemic non-compliance with the standards code or with any requirement of, or imposed under, the complaints scheme;

(a) provide for the board to direct appropriate remedial action, including publication of a correction or apology, and in cases of serious or systematic non-compliance to impose effective sanctions including significant financial sanctions.

Recognition criteria in relation to pre-publication advice scheme

10 The body must maintain a scheme under which a member may (but need not) seek the body's advice before publishing any information about an individual without first notifying that individual, and the body may (but need not) provide that advice.

Recognition criteria in relation to arbitration scheme

11 The body must establish and maintain a scheme (an "arbitration scheme") under which a person who seeks to make a civil claim against a member arising out of any activity within the scope of the standards code binding on that member may, instead of bringing legal proceedings, refer the claim to arbitration, such that the arbitration is conducted inquisitorially in a fair, expeditious and inexpensive way and the arbitrator may not make an award of costs against a claimant unless the claim is frivolous or vexatious.

Recognition criteria in relation to annual report

DRAFT

12 The body's rules must require it to publish an annual report which must, among other things, identify the members of the body and the titles they each publish (indicating any significant changes in the number of members), enable the public to appreciate the compliance record of each title published by members of the body, state the body's opinion about the adequacy of each member's internal governance arrangements, and provide information about usage of the arbitration scheme.

DRAFT